

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SAMUEL S. UPTHEGROVE,

Plaintiff,

ORDER

v.

09-cv-206-bbc

CAPTAIN HOLM,

Defendant.

In an order entered April 30, 2009, I screened plaintiff Samuel S. Upthegrove's complaint and granted him leave to proceed on his claim that defendant Captain Holm violated his Eighth Amendment rights by refusing to allow him to wear a jacket when he went to the hospital in subzero temperatures. A preliminary pretrial conference has been scheduled in this case for July 1, 2009. Now, plaintiff has filed a motion for sanctions.

In his motion, plaintiff states that he served discovery requests on defendant, but that instead of responding to him, defendant filed his objection to the requests with the court. Plaintiff suggests that defendant's filing may be a motion for protection of discovery which he argues is sanctionable because defendant did not attempt to resolve the matter with plaintiff before filing with the court. However, defendant's filing is nothing more than

defendant's response to plaintiff's discovery requests. There is no basis for awarding sanctions for a party's merely filing discovery responses with the court. Although the parties should not file their responses to discovery requests with the court, defendant's response was not a motion to which plaintiff had to respond. Fed. R. Civ. P. 37, which sets forth the grounds for discovery-related sanctions, does not prohibit filing unbidden discovery responses. Therefore, plaintiff is not entitled to sanctions.

ORDER

IT IS ORDERED that plaintiff's motion for sanctions, dkt. #15, is DENIED.

Entered this 5th day of June, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge